

Exhibit 39



**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

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**SIERRA BOUCHER, LILY ENGBRECHT,
NATASSIA TUHOVAK, HANNAH WHELAN,
and, CASSIDY WOOD,**

PLAINTIFFS,

CASE NO. 1:22-CV-00381-CCR

-against-

TRUSTEES OF CANISIUS COLLEGE,

DEFENDANTS.
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**DECLARATION OF DR. PAUL WALDAU
PURSUANT TO 28 U.S.C. § 1746 UNDER PENALTY OF PERJURY**

1. I am over the age of eighteen, suffer from no legal disabilities, have personal knowledge of the facts set forth below, and am competent to testify.
2. I understand I am making the statements in this Declaration under oath. This Declaration is true and accurate to the best of my knowledge.
3. I am an educator, scholar, and activist working at the intersection of animal studies, law, ethics, religion, and cultural studies.
4. After thirteen years working as a trial lawyer and administrative partner in a California law firm, I completed a Doctor of Philosophy degree at the University of Oxford in 1997.
5. I taught Animal Law at Harvard Law School from 2002 to 2014.
6. From 2009 through 2019, I also taught a variety of courses focusing on nonhuman animals in the areas of ethics, science, religion and law in Harvard's Summer School.

7. I am an organizing member of The Great Ape Project, an international organization consisting of scientists and ethicists advocating for legal protections for primates, which was founded in 1995, and I served as the Vice President and then as Executive Director until 2008.

8. I spent a decade teaching ethics and public policy at Tufts University School of Veterinary Medicine, where I worked as the Director of the Center for Animals and Public Policy until 2009.

9. In 2011, I began my tenure as an associate professor at Canisius College, where I served as the senior faculty for the Master of Science program in Anthrozoology, a program I founded.

10. At Canisius, I was required to teach classes at both the undergraduate and graduate level, and for that reason, became familiar with my peers who were faculty in the Animal Behavior and Environmental Conservation (ABEC) program, an undergraduate division within the Biology Department.

11. When my tenure at Canisius began, Dr. Michael Noonan served as the Chair of the ABEC program.

12. In 2014, my colleague, a now former faculty member in the ABEC program, Dr. Christy Hoffman, told me that she witnessed Dr. Noonan braiding the hair of a student at the Colorado airport during a school-sponsored trip, which was later corroborated by several others.

13. That same year, in 2014, Dr. Hoffman told me that she had instructed Dr. Noonan not to hug her anymore and that he failed to honor that request in subsequent interactions.

14. Dr. Hoffman told me during the same time period that Dr. Malini Suchak, another ABEC program professor, also requested that Dr. Noonan refrain from hugging her and that he would tease her about not wanting to be hugged by him.

15. In addition, during 2014, I became aware that Dr. Noonan asked a student, who I memorialized in my notes, which are attached to this Declaration, only as “Nicole,” to come into his office to show him her bruises.

16. In 2014, I asked Father Tom Colgan, the Canisius chaplain, about Title IX reporting to review my obligation to report as a senior faculty member.

17. Father Colgan told me that any victim of unwanted touching should see Terri Mangione, who at that time served as the Canisius College Title IX Coordinator.

18. In or about April 2015, I confronted Dr. Noonan in his office the day after an end-of-year party, during which he forced Dr. Suchak into a group hug, after she clearly indicated that she did not want to participate.

19. I told Dr. Noonan that the “conversations in the hall” I had with other faculty colleagues had focused on his troubling failure to observe someone’s wishes about being forced to join a group hug or to be hugged by him.

20. I didn’t name any names of faculty members who found Dr. Noonan’s practice of hugging offensive for fear he would be punitive.

21. Dr. Noonan listened without saying a word, then told me point blank he would stop the practice of group hugs. It was clear to me that Dr. Noonan did not want to discuss any details and, I thought, wanted the conversation ended as soon as possible. I don’t think this exchange took more than 2-3 minutes.

22. On or about February 11, 2016, Mary Fiorella, who worked as the ABEC program administrative assistant for many years, told me that a student named [REDACTED] was asked by Dr. Noonan to show him her scar from recent heart surgery.

23. Ms. Fiorella had been talking to [REDACTED] when I walked up to Ms. Fiorella's desk, and it was obvious to me that the student was very uncomfortable and upset.

24. When [REDACTED] was gone, I asked Ms. Fiorella if I could help [REDACTED] in any way.

25. Ms. Fiorella later came to my office to tell me privately what [REDACTED] had reported to her about Dr. Noonan, which Ms. Fiorella told me had made the student very upset.

26. I later asked Dr. Suchak if I had a reporting obligation under the Canisius College Title IX policy and she thought I very likely had a Title IX reporting obligation.

27. For that reason, that same day, I e-mailed Ms. Mangione to ask her if I had a Title IX reporting obligation, and whether I should report to her information that I had been told that could be a potential Title IX problem.

28. Ms. Mangione e-mailed me back and told me she had tried to reach me by phone but could not get ahold of me.

29. Ms. Mangione and I connected by telephone the next day, on or about February 12, 2016.

30. During my phone call with Ms. Mangione, I reported to her what Ms. Fiorella had told me and my observations of the student, [REDACTED]

31. In response, Ms. Mangione told me, "you're doing the right thing" by making the Title IX report, which was never reduced to writing because no one ever asked me to do so.

32. Ms. Mangione told me that the student should be encouraged to talk with her and that the student "decides on whether this will move forward."

33. Ms. Mangione mentioned that knowing name of faculty member would help, in case there had been a number of other complaints made on an anonymous basis about that professor, and at that time I informed her that the issue related to Dr. Noonan.

34. I distinctly recall making the report to Ms. Mangione about Dr. Noonan's mistreatment of [REDACTED] because I wanted to ring his bell and call attention to the way he interacted with women at Canisius.

35. I called Ms. Fiorella after my telephone conversation with Ms. Mangione to update her, and at that time I mentioned that she could tell the student to contact Ms. Mangione.

36. Ms. Fiorella told me that she had already instructed [REDACTED] to report Dr. Noonan's misconduct to Ms. Mangione.

37. I never followed up with Ms. Fiorella or the student, [REDACTED] to find out if a complaint against Dr. Noonan had been filed because I did not think it was my place to inquire any further about the matter.

38. Natassia Tuhovak, a plaintiff in this lawsuit, contacted me in or about 2021 at the direction of Dr. Kathy Hessler, who is a colleague of mine and who works as a law school professor at Lewis and Clark Law School, where Ms. Tuhovak attended after leaving Canisius College.

39. Ms. Tuhovak told me that Dr. Hessler suggested that she reach out to me after Dr. Hessler discussed with Ms. Tuhovak the pervasiveness of gender discrimination and sexual harassment in the animal law practice area.

40. When I spoke with Ms. Tuhovak on the telephone in 2021, she told me that she was afraid of being sexually harassed working as a lawyer given her experience being sexually harassed by Dr. Noonan when she was a student in the Canisius ABEC program.

41. During that telephone call, I shared with Ms. Tuhovak that I contacted Ms. Mangione, in her capacity as the Title IX coordinator, during my time teaching at Canisius to report Dr. Noonan's misconduct involving another student.

42. This Declaration is true and accurate to the best of my knowledge.

Dated: August 8, 2023


DR. PAUL WALDAU

MANGIONE, Dr. Terri L.
VP for Student Affairs & Dean of Student
716-888-2130
mangiont@canisius.edu

.1 10/15/14 2:23 PM I'm told (by Tom Colgan, I think) that any victim of unwanted contact should see Terri Mangione, Title IX coordinator
hostile environment,
college policies ...

- picking up [REDACTED] witnessed in 2012, I think, and told from time to time by 3rd parties about other episodes of non-sexual touching.
- told by Christy Hoffman about episode of MN braiding of student hair while in Colorado airport (2 different 3rd parties report this to me 10/15/2014)
- Someone mentioned to me episode of asking student [REDACTED] into his office to "show me your bruises" (2 different 3rd parties report this to me 10/15/2014)
- Christy Hoffman tells me 10/15/2014 in my office that she explicitly asked Noonan to not hug her, and that this request has not been honored—Christy also mentioned that she took this problem to Deborah Winslow-Schaefer, who said you should try to see the issue from Noonan's vantage point because he sometimes doesn't get social cues
- Christy also told me that Malini has instructed Mike not to hug her, but Mike still teases Malini about hugs by coming close to her and pretending to hug her
- 2015Apr I talked to MN in his office the day after the HS111 end of year party where Malini Suchak was forced into a group hug after clearly indicating she did not want to participate ...I told MN that the "conversations in the hall" had focused on how troubling this failure was to observe someone's wishes about joining the group. I didn't give MN names, as I fear he would be punitive. As far as I know, there were three of the faculty involved in the hall conversation (myself, Josh and Malini, but perhaps Christy as well). MN listened without saying a word, then told me point blank he would stop the practice of group hugs—MN clearly did not want to discuss any details and, I thought, wanted the conversation ended as soon as possible. I don't this exchange took more than 2-3 minutes.

.2 lmtcb 3/3/15 11:01 AM re Dr. Noonan referral and issue of using dorms when Anzo grad students come on campus

.3 Mary Fiorella tells me 2/11/16 at about 230PM of [REDACTED] being asked by MN to show her scar from recent heart surgery operation (Mary had been talking to [REDACTED] when I walked up to Mary's desk, and was obviously uncomfortable—I asked Mary after [REDACTED] was gone if I could help in any way; Mary later came to my office to say privately what I mention above).

I talked subsequently to Malini as she was leaving the office, and asked her if I had a reporting obligation—Malini thought I very likely had a Title IX reporting obligation.

PCT Terri 3:37 PM x2130 re [REDACTED] – Terri not in until next week, but asks if I can email Terri—I say yes, I can send an email.

sent to mangiont@canisius.edu 2/11/16 3:47 PM
Terri,

This is Paul Waldau of ABEC/Anthrozoology. I was told a story today by a credible source that may obligate me to do a report on a potential Title IX problem. Because I don't know the law well, nor whether I have a reporting obligation, I'd like to talk with you about whether I need to report what I was told. I can do this by phone (I'm on my way this afternoon to the airport to fly home to Boston—I won't be back on campus until Thursday, February 18). Here is my cell phone if you want to call me: 617/523-6116.

Thanks,
Paul

.4 from Terri Mangione 12:11 Friday, February 12, 2016

I just tried to call the number below which does not accept voicemail messages, so I am emailing you. If you would like to return my call, my cell number is [REDACTED] You can reach me at any time and leave a message. I will find a private location and call you right back.

Sincerely,
Terri

.5 pct Terri 2/12/16 12:19 nine minutes

"you're doing the right thing"

student should be encouraged to talk with Terri

Student decides on whether this will move forward, but Terri mentioned that knowing name of faculty member would help in some instances (in case there have been a # of other complaints on an anonymous basis)

Staff person's identity will not be disclosed

there is a retaliation policy

student handbook has the guidelines, and is available at My Canisius portal

[I called Mary Fiorella at ANZO main number at 12:29 for 4 minutes to give her a report on this contact, and mention that she can tell student to talk with Terri Mangione (it turns out that this advice had already been given by Mary to student)]